

3.73-24-127

FILED
JULY 9, 2003
PM 3:03

LOUISE S. WILSON
CLERK
DEPUTY
IN EQUITY NO. C-125
SUBFILE NO. C-125-B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

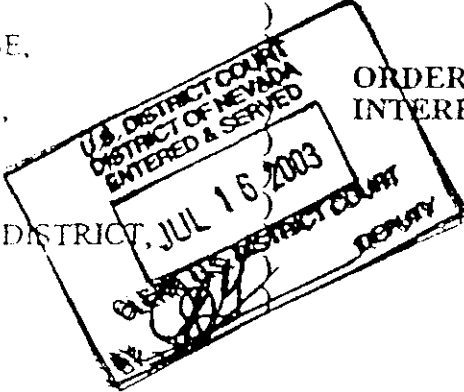
Plaintiff,

WALKER RIVER PAIUTE TRIBE,

Plaintiff-Intervenor,

vs.

WALKER RIVER IRRIGATION DISTRICT,
a corporation, et al.,



ORDER - DISCLAIMER OF
INTEREST

The following background information is provided to aid in understanding the reasons
for and what is required by this Order:

1. The Court has ordered that certain persons and entities be included as parties in
this action because they own water rights within one or more of the nine categories set forth in
Paragraph 3 of the Court's April 18, 2000 Case Management Order.

2. It is possible that some of the specific persons or entities who are served with a
Waiver of Service of Notice in Lieu of Summons, Notice of Lawsuit, or a Notice in Lieu of
Summons do not belong in this action, because, for example, they may have sold or otherwise
conveyed the ownership of all water rights subject to this action prior to being served.

3. A change in ownership of a water right can occur in a number of ways and for a
variety of reasons. Often a change in ownership of a water right occurs when ownership of the
land on which the water is used changes. A change in ownership may involve a sale, a gift, a
death or even a divorce. It may also involve estate or business planning decisions, such as
conveyance to an inter vivos trust or a limited liability company. Frequently, changes in
ownership are accomplished by a deed. However, in an estate or divorce proceeding, they may
be accomplished by an order of a court. These examples are not an exclusive list of all of the

206

ways in which a change in ownership may occur.

4. It is important that the Court and the Plaintiffs be notified if a person or entity who receives service by mail or personal service does not, in fact, have any ownership interest in a water right in any of the nine categories set forth in Paragraph 3 of the Court's April 18, 2000 Case Management Order. In addition, that person or entity need not be burdened with this litigation and, if there was a change in ownership, a new party may need to be added to the action. Before any such person may be omitted from this action, certain information and documents will have to be provided to the Plaintiffs and the Court.

Based upon the foregoing, it is hereby ORDERED as follows:

1. If any person or entity receiving service by mail or personal service has no interest in any water right within any of the nine categories set forth in Paragraph 3 of the *Case Management Order* (Apr. 18, 2000)^{1/}, that person or entity shall notify the Court and the

You should review the *Case Management Order* and *First Amended Counterclaims* filed by the United States and by the Walker River Paiute Tribe, which are included in the materials served upon you. For convenience, the nine categories of persons and entities that the Court has ordered to be served and named are listed here:

1. Category 3.a.: The successors in interest to all water rights holders under the Decree (April 14, 1936), modified, Order of Entry of Amended Final Decree to Conform to Writ of Mandate, Etc. (April 24, 1940) ("Decree").
2. Category 3.b.: All holders of surface water rights under the laws of the States of Nevada and California in the Walker River Basin who are not presently parties to this adjudication.
3. Category 3.c.: All holders of permits or certificates to pump groundwater issued by the State of Nevada and domestic users of groundwater within Sub Basins 107 (Smith Valley), 108 (Mason Valley), 110A (Schurz Subarea of the Walker Lake Valley), and 110B (Walker Lake Subarea of the Walker Lake Valley).
4. Category 3.d.: All holders of permits or certificates to pump groundwater issued by the State of Nevada within Sub Basins 106 (Antelope Valley), 109 (East Walker), and 110C (Whiskey Flat-Hawthorne Subarea of Walker Lake Groundwater Basin).
5. Category 3.e.: All users of groundwater for irrigation in California in the Walker River Basin.

1 United States in writing of that fact.

2 2. If such person or entity sold or otherwise conveyed ownership of all of the water
3 rights that the person or entity once owned before they were served or otherwise brought into
4 this action, in addition to disclaiming any interest in this action, they shall include a notice
5 providing the following information:

6 A. The name and address of the person or entity who sold or otherwise
7 conveyed ownership;

8 B. The name and address of each person or entity who acquired ownership;
9 and

10 C. A copy of the deed, court order or other document by which the change
11 in ownership was accomplished.

12 3. The disclaimer and notice shall be sent to the Court and counsel for the United
13 States, addressed as follows:

14 Linda Lea Sharer, Chief Deputy Clerk
15 United States District Court for the District of Nevada
16 400 South Virginia Street, Suite 301
17 Reno, NV 895501

18 Susan L. Schneider
19 United States Department of Justice
20 P.O. Box 756
21 Littleton, CO 80160

22 4. The form and substance of the disclaimer and notice shall substantially conform
23 to the form attached to this Order as Exhibit A.

24 5. Following their receipt from any person or entity disclaiming any interest in any

25 6. Category 3.f.: All holders of "vested rights" to the use of groundwater under the laws
26 of the State of Nevada within the Walker River Basin.

27 7. Category 3.g.: All municipal providers in Nevada within the Walker River Basin
28 who currently use groundwater.

 8. Category 3.h.: All municipal providers in California within the Walker River Basin
who currently use groundwater.

 9. Category 3.i.: All industrial users in Nevada within the Walker River Basin who
currently use groundwater.

1 of the water rights at issue in this case of a Waiver of Service of Notice in Lieu of Summons
2 and any Disclaimers of Interest and accompanying information and documents sought by this
3 Order, Plaintiffs will review the materials received and, if appropriate, seek the Court's
4 concurrence in omitting that person or entity filing such materials from this case.

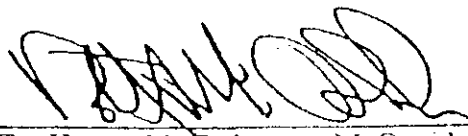
5 6. If Plaintiffs do not receive a Waiver of Service of Notice in Lieu of Summons
6 and must personally serve a person or entity that subsequently files a Disclaimer of Interest
7 pursuant to this Order, Plaintiffs will also review the materials received and, if appropriate,
8 seek the Court's concurrence in omitting the person or entity from this case, but that person or
9 entity may be subject to paying the costs related to formal personal service on them.

10 7. Despite the above provisions, any person or entity who files a Disclaimer of
11 Interest in this matter is ultimately responsible for the accuracy of this filing. Consequently,
12 any person or entity who files a Disclaimer of Interest, but, in fact, has water rights subject to
13 this litigation, shall nevertheless be bound by the results of this litigation.

14 8. Any person or entity subject to service under the Federal Rules of Civil
15 Procedure who receives notice of this action in the manner provided by Federal Rule of Civil
16 Procedure 4(d) remains subject to the duty to avoid unnecessary costs of serving the summons,
17 even if that person or entity ultimately disclaims any ownership interest in any of the water
18 rights described by Paragraph 3 of the Court's April 18, 2000 Case Management Order.

19 IT IS SO ORDERED:

20 Dated July 9, 2003.

21
22 
23 The Honorable Robert A. McQuaid, Jr.
24 United States District Court Magistrate Judge
25
26
27
28

1 water rights that the undersigned (for the entity on whose behalf the undersigned is acting) once
2 owned before the undersigned was served with a Waiver of Service of Notice in Lieu of
3 Summons or by a Notice in Lieu of Summons, the undersigned provides the following
4 additional information:

5 1. The name and address of the party or parties who sold or otherwise conveyed
6 ownership.

7 Name(s): BAY INVESTMENT PROPERTIES LLC

8
9 Street or P.O. Box: 1080 CANAL DRIVE

10
11 Town or City: GARRETTVILLE, IN

12
13 State: IN

14
15 Zip Code: 46410

16 2. The name and address of each person or entity who acquired ownership

17
18 Name(s): BELL, MARK R.
19 FERNANDEZ, JANET

20
21 Street or P.O. Box: 4609 DOWNING CT

22
23 Town or City: GRANITE BAY

24
25 State: CA

26
27 Zip Code: 95746
28

3. Attached to or included with this notice is a copy of the (check appropriate box(es)):


- ☐ Deed
☐ Court Order
☒ Other Document.

I never had a water
right to this property
once we built SR any
water ~~right~~ I had would go
to Lyon County
Dedication of water any
right to Lyon County
new cen structure (well)

by which the change in ownership was accomplished.

4. The undersigned acknowledges that any person or entity who files a Disclaimer of Interest in this matter is ultimately responsible for the accuracy of this filing. Consequently, the undersigned acknowledges that any person or entity who files a Disclaimer of Interest, but, in fact, has water rights subject to this litigation, shall nevertheless be bound by the results of this litigation.

Executed this 20th day of MARCH 2007.


[signature of counter-defendant]

MARK R Bell
[name of counter-defendant]

[name, if applicable, of person acting on
behalf of counter-defendant]

[signature, if applicable, of person acting on
behalf of Counter-Defendant]

[address]

[telephone number]

RESOLUTION

**A RESOLUTION SETTING THE NEW WATER CONSUMPTIVE USE
PROFILE
FOR THE DAYTON WATER UTILITY**

RECEIVED

NOV 27 2001

LYON COUNTY UTILITIES

WHEREAS, the County of Lyon operates and maintains a Water
Utility Service Area within the Dayton Valley Ground Water Basin;

WHEREAS, customer water use data indicates consumptive use is
below 1.12 acre-feet per year;

WHEREAS, Capital Engineering prepared the Water
Consumptive Use Profile Study, a comprehensive study of the Dayton Water
Utility;

WHEREAS, on October 11, 2001, the State Department of
Conservation and Natural Resources, Division of Water Resources (State)
approved water rights dedication requirements;

WHEREAS, the County of Lyon has determined at this time to
establish common water rights dedication requirements as approved by the State;

NOW, THEREFORE, BE IT RESOLVED,

That beginning November 16, 2001 the Board of Lyon County Commissioners
does hereby set the water consumptive use profile dedication for single family
homes for the Dayton Water Utility as follows:

REQUIRED DEDICATION OF WATER RIGHTS (ACRE-FEET)	LOT SIZE (FEET SQUARED)
0.7	10,000 AND UNDER
0.85	OVER 10,000 AND UP TO 12,000
0.95	OVER 12,000 AND UP TO 16,000
1.12	OVER 16,000

PASSED, APPROVED AND ADOPTED this 15th day of November,

2001 by the following vote of the Lyon County Board of Commissioners:

AYES: Fulstone, Goodman, Hillyard, Hunewill, Milz

NAYES: 0

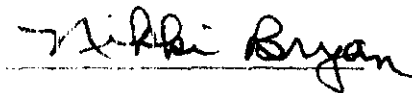
ABESENT: 0

ABSTENTIONS: 0

BOARD OF LYON COUNTY
COMMISSIONERS


By: Chairman

Attest:



County Clerk

LYON COUNTY BUILDING PERMIT

PERMIT SHALL EXPIRE BY LIMITATION IF WORK
HORIZONTAL IS NOT COMMENCED WITHIN 180 DAYS

Mark Bell

92 Hawk View Road, Wellington

10-191-15

B-28003 DATE 2/10/2006

Jerry Olsen Construction

Residence/Garage

Class. R-3/U Flood Zone C-0475 B

IB3 Set Backs: F 30 S 10 R 20

Block Sub 12-L1-23 PER W2 SEA PAR B
his card must be kept in a conspicuous place on or in the building
readily available to County inspectors. Inspection must be called for and made
by Sec. 108 of the Building Code.

IMPORTANT NOTICE

THIS SHALL EXPIRE BY LIMITATION IF WORK IS SUSPENDED
ABANDONED FOR A PERIOD OF 180 DAYS AFTER WORK IS
SUSPENDED. (ONE 180 DAY EXTENSION ALLOWED) IBC 105.5

N. Campbell S. Menashe

INSPECTION RECORD

TELEPHONE 463-6591 577-5035

DATE	INSPECTOR	REMARKS
2-14-06	Jerry Olsen	
2-17-06	10500	
2-27-06	10500	
A Flood zones require elevation certificate for lowest floor prior to further inspections per Section 108 of Building Code		
4-17-06	Jerry Olsen	
3-10-06	10500	
5-2-06	Jerry Olsen	see Excavation
5-9-06	Jerry Olsen	ALL BATT HAND
5-16-06	Jerry Olsen	
8-3-06	Jerry Olsen	FINAL
8-16-06	Jerry Olsen	
8-30-06	Jerry Olsen	
Water Lateral		
Sewer/Water		Utility Co. or GID approval required prior to final
Local Fire Department		Commercial Permits
Mfg. Home Conversion		
Power - Gas Service		Apply ready for service required

THIS BUILDING SHALL NOT BE OCCUPIED UNTIL FINAL INSPECTION HAS BEEN
MADE AND CERTIFICATE OF OCCUPANCY ISSUED. THIS CARD WHEN SIGNED
CONSTITUTES C. of O. FOR SINGLE FAMILY RESIDENCE AND ACCESSORY.

FINAL INSPECTION

8-3-06

DATE

BUILDING INSPECTOR